who elects a full Living Benefit under subpart K of this part stop at the end of the pay period in which the Living Benefit election is effective.

(b) Withholdings and contributions for Basic insurance for an employee who elects a partial Living Benefit under subpart K of this part are based on the post-election BIA. This reduction in withholdings and contributions starts at the end of the pay period in which the Living Benefit election is effective.

(c) Withholdings and contributions for Basic insurance for an annuitant or compensationer who elected a partial Living Benefit as an employee are based on the post-election BIA.

(d) There is no change in withholdings for Optional insurance for individuals who elect a Living Benefit.

[62 FR 48731, Sept. 17, 1997; 62 FR 52181, Oct. 6, 1997]

§ 870.404 Withholdings and contributions provisions that apply to both Basic and Optional insurance.

(a) Withholdings (and Government contributions, when applicable) are based on the amount of insurance last in force on an employee during the pay period.

(b) Withholdings are not required for the period between the end of the pay period in which an employee separates from service and the date his/her annuity or compensation begins.

(c) No payment is required while an insured employee is in nonpay status for up to 12 months. Exception: an employee who is in nonpay status while receiving compensation.

(d) The deposit described in §§ 870.401(f) and 870.402(f) must be made no later than 60 calendar days after the date the employing office determines the amount of the underdeduction that has occurred, regardless of whether or when the underdeduction is recovered by the agency. The agency must determine whether to waive collection of the overpayment of pay, in accordance with 5 U.S.C. 5584, as implemented by 4 CFR chapter I, subchapter G. However, if the agency involved is excluded from the provisions of 5 U.S.C. 5584, it may use any applicable authority to waive the collection.

(e) Effective October 21, 1972, when there is an official finding that an employee was suspended or fired erroneously, no withholdings are made from the back pay. Exception: if death or accidental dismemberment occurs during the period between the employee's removal and the finding that the agency action was erroneous, premiums are withheld from the back pay awarded.

(f) If an individual's periodic pay, compensation, or annuity isn't sufficient to cover the full withholdings, any amount available for life insurance withholding must be applied first to Basic insurance, with any remainder applied to Optional insurance (first to Option B, then Option A, then Option C).

[62 FR 48731, Sept. 17, 1997, as amended at 68 FR 59082, Oct. 14, 2003; 75 FR 60578, Oct. 1, 2010]

§ 870.405 Direct premium payments.

(a) Since January 1, 1988, annuitants who retired under 5 U.S.C. chapter 84 (Federal Employees' Retirement System) have been able to make direct premium payments if their annuity became too small to cover the premiums. Effective the first pay period beginning on or after October 30, 1998, all employees, annuitants, and compensationers whose pay, annuity, or compensation is insufficient to cover the withholdings can make direct premium payments.

(b)(1) For an individual to be eligible to make direct premium payments, the employing office or retirement system must determine that the pay, annuity, or compensation, after all other deductions, is expected to be insufficient on an ongoing basis, *i.e.*, for the next 6 months or more.

(2) This section does not apply to employees in nonpay status. Employees in nonpay status are governed by § 870.404(c).

(c)(1) When the employing office or retirement system determines that the pay, annuity, or compensation is insufficient, and will be insufficient on an ongoing basis, it must notify the insured individual (or the assignee, if the individual has assigned his/her insurance under subpart I of this part) in writing and inform him/her of the available choices.

(2) Within 31 calendar days of receiving the notice (60 days for individuals living overseas), the insured individual (or assignee) must return the notice to the employing office or retirement system, choosing either to terminate some or all of the insurance or to make direct premium payments. An employee, annuitant, or compensationer is considered to receive a mailed notice 15 days after the date of the notice.

(3) If an individual does not return the notice within the required time frames, the employing office or retirement system will terminate the insurance.

(d)(1) Terminated coverage stops at the end of the last pay period for which premiums were withheld.

(2) An individual whose insurance terminates, either by choice or by failure to return the notice, gets the 31-day extension of coverage and right to convert, as provided in subpart F of this part.

(3)(i) When an employee's pay again becomes sufficient to allow premium withholdings, the employing office will automatically reinstate the terminated coverage.

(ii) An annuitant or compensationer whose coverage terminates cannot have the coverage reinstated when the annuity or compensation becomes sufficient to cover withholdings.

(e)(1) Employing offices and retirement systems must establish a method for accepting premium payments for insured individuals who choose to pay directly.

(2) Individuals who are paying directly must send the required premium payment to the employing office or retirement system for every pay period during which coverage continues. The insured individual must make the payment after each pay period, according to the schedule established by the employing office or retirement system.

(3)(i) When an employee's pay again becomes sufficient to allow premium withholdings, he/she must stop making direct payments. The employing office will begin to withhold premiums automatically.

(ii) An annuitant or compensationer who is making direct premium payments must continue to pay directly, even if the annuity or compensation becomes sufficient to allow withholdings.

(f) The employing office or retirement system must submit all direct premium payments, along with its regular life insurance premiums, to OPM according to procedures set by OPM.

(g)(1) If an individual on direct pay fails to make the required premium payment on time, the employing office or retirement system must notify the individual. The individual must make the payment within 31 calendar days after receiving the notice (60 days if living overseas). An individual is considered to have received a mailed notice 15 days after the date of the notice, 30 days if living overseas.

(2) If an insured individual fails to make the overdue payment, his/her insurance cancels. Cancellation is effective at the end of the last pay period for which payment was received.

(3) An individual whose insurance cancels for nonpayment does not get the 31-day extension of coverage or the right to convert provided in subpart F of this part.

(4) Coverage that cancels for nonpayment is not reinstated when the individual's pay, annuity, or compensation becomes sufficient to allow withholdings, except as provided by paragraph (g)(5) of this section.

(5) If, for reasons beyond his or her control, an insured individual is unable to pay within 30 days of receiving the past due notice (45 days if living overseas), he or she may request reinstatement of coverage by writing to the employing office or retirement system within 60 days from the date of cancellation. The individual must provide proof that the inability to pay within the time limit was for reasons beyond his or her control. The employing office or retirement system will decide if the individual is eligible for reinstatement of coverage. If the employing office or retirement system approves the request, the coverage is reinstated back to the date of cancellation, and the individual must pay the back premiums.

[64 FR 72462, Dec. 28, 1999, as amended at 75 FR 60578, Oct. 1, 2010]